LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
First Session — Fourteenth Legislature
27th Day

Friday, March 17, 1961.

The House met at 2:30 o'clock p.m.

On the Orders of the Day:

TRIBUTE TO ST. PATRICK'S DAY

Hon. Mr. Davies (Minister of Public Works): — Mr. Speaker, before the Orders of the Day I wonder if I could draw the attention of the members to the plants on their desks, which are identified I understand, in all seed catalogues, to be the true Irish Shamrock.

While I am on my feet, Mr. Speaker, may I remark that this is provided by the courtesy of Mr. Moran, the Provincial Horticulturist, and also to remark that this is the birthday of our Deputy Speaker, the Member for Wadena. I don't know if Mr. Dewhurst is a corruption of Old Dewhurst, but I'm sure we'll all want to wish him a very happy birthday.

TRIBUTE TO ST. PATRICK'S DAY

Mr. Ed. Whelan (Regina City): — Mr. Speaker, before the Orders of the Day, I would like to remind the Members of this Assembly that this is St. Patrick's Day, and on this day we Irishmen lay down our shillelagh and take up the harp to sing the praises of those who came from the Emerald Isle. I've been thinking of the people who sit in the benches opposite and I've noticed in the past number of days that one of them has been very quiet, and I think that in view of the fact that there are three of my hon. friends opposite with the first name of Ross, on this particular day, Mr. Speaker, I think it would be appropriate if they would name one of them the Member for Cannington as the honorary Leader of their group on St. Patrick's Day.

The Irish are famous, Mr. Speaker, in the field of music, letters, mechanics, and in the field of humor. When I first arrived in the Legislature I felt a little bit like the Irishman that was going to buy a train ticket and he had never bought one before. All of the procedure here seemed strange to me, too. I watched the other fellows, and a good many questions came up in my mind, but I hesitated to ask them.

This story about the Irishman buying the train ticket came up in my mind many times. It seems that the fellow had never purchased a ticket, but he went to the railway station alone. He was a man about 35 years of age, and he didn't want anyone to know that he hadn't gone through this procedure. So he thought to himself, I'll wait until someone else buys a ticket and then I'll do exactly the same. There was a little town close by called Merry Hill, and a girl came in and bought a one way ticket. She stepped up to the ticket agent and said in a loud voice, "Merry Hill — single". The Irishman stopped pacing the floor, sized up the situation very carefully, and as soon as the lady stepped away from the wicket he said in a loud voice "Michael Patrick Murphy, married".

I have been admiring some of the situations that have arisen in the House, particularly when my friends opposite criticize expenditures and then want gas installations in Wapella and Whitewood. In any case, it brings to my mind a sort of inconsistency that I think arose when an Irish lady sent her son a top coat. When he opened the package the buttons were cut off the top coat — there were no buttons on it — there was a little note explaining, and the note read something like this, "I cut off the buttons to save the postage. P.S. you'll find them in the inside right-hand pocket."

I do believe that an Irishman is noted for being able to get out of a predicament quickly, and I think that this is something that a politician should take note of, Mr. Speaker.

I recall a story about an Irishman who was walking down the street. He met a friend, and the friend said to him, "Mike do you realize that you are wearing a red sock on one foot, and a blue one on the other?" He looked down at this feet and he came back with, "Tis nothing, I have another pair like them at home".

Now, I think the Irishmen suffered this past

year. Their reputation at least suffered, they are supposed to be fighters, and if you will recall in a debate in the United Nations Assembly, recently, when one of the leaders found himself in conflict with most of the Members of the United Nations, and started to slug his desk with his shoe. The Irish representative, Mr. Boland, happened to be in the chair. This was a terrible predicament for an Irishman if he is supposed to participate in a fight, and he had to keep peace. I say that the only way the Irish saved face on this particular occasion was, the representative, Mr. Boland, managed to smash the gavel to smithereens while he was trying to call Mr. Khrushchev to order.

I do believe that the Irishmen also gained some fame in the last year. If you will recall, Mr. Speaker, the recently-elected President of the United States, Jack Kennedy, is an Irishman, and I think that he brought credit to the Irish people, and is continuing to do so by the policies that he is introducing in that country.

Years ago four brothers left Ireland about the same time, Mr. Speaker. One brother went to live in Boston, and the other three came to Canada. I think we are fortunate to have in my Constituency and in Saskatchewan, a relative of one of the brothers. This man is a success in his own right, for he farmed in Saskatchewan and retired, and is a fairly well-to-do person. But this man has this in common with the gentleman who is the President of the United States; their grandfathers were brothers. I would like to call your attention and the Assembly's attention to the fact that seated in the gallery on the Government side of the House, immediately in the front row, wearing a brown suit, is a constituent of mine, the man who is in the Speaker's Gallery just to the right of the clock. This man is a cousin of the President of the United States. Their grandfathers were brothers.

In closing I would like to say that I'm sure I'm speaking on behalf of all members of the House, and on behalf of all the people of the province, when I say to the Irish I wish them the luck of the Irish, and I would hope that it would bring them good fortune, good music, good humor, and good health, until St. Patrick's day rolls around again.

TRIBUTE TO ST. PATRICK'S DAY

Mr. McCarthy (Cannington): — Mr. Speaker, I was very pleased to see that we have some more people who are of Irish descent on the other side. I miss my old friend Jack Sturdy. Jack and I used to get up, and were about the only ones apparently prepared to admit that we were Irish. But of course, I've always said on this particular day that there are just two classes of people, the Irish and those who wished they were, and I think that's right. And if you will notice the group on this side, for today at least they are all Irish. Now, over there a lot of them aren't properly clothed. They haven't Irish markers up.

Now, I'm not going to take up very much time, Mr. Speaker, I think that I've told you all the stories that I know, but I did hear a pretty good story in Saskatoon the other day.

Two Irishmen were having a fight down the street. The policeman came along and picked them both up and shut them in the jug. So they appeared before the Judge the next morning, and the Judge looked at them and he said, "You fellows are both twenty-one years old, you ought to be able to settle your differences without coming before the court." Pat said, "Jeepers that's what we were doing but the policeman interfered."

Now, there are a lot of stories about Ireland and St. Patrick and all the rest of it, but it's very hard at this late date to separate the facts from the fiction. It has been established — and I have the document here to prove it if anyone wants to see it — that Barney Castle was built by the McCarthy Clan — well I've got it right here — and it stayed under the McCarthy Clan for many years — there were three different Barney Castles built. Two of them burnt down and they built the third one, but the unfortunate sequence of the story is, that the last one who owned it was a Scotsman. Now he must have been one of those who wanted to be an Irishman so he bought Barney Castle.

Mr. Speaker, that is all that I have to say at the moment.

TRIBUTE TO THE WELSH

Hon. Mr. Williams (Minister of Labour and Telephone): — Mr. Speaker, everyone seems to be good humor this afternoon. So, perhaps as one of the non-Irish Members of the Legislature, I could just say a word or two on behalf of the Welsh.

As you know, March 1st is St. David's Day, and it was celebrated very fittingly by a number of people of Welsh descent in this city.

The Member for Regina and my colleague, Mr. Whelan, told a story about an Irishman buying a train ticket. I am also reminded of a Welsh woman buying a ticket in Wales, to a point called Lleu, (Don't ask me to pronounce it that's the closest I can come). This Depot Master was in his office as usual, and the train was just about due to come and he had pulled down the wicket. This woman came rushing in the waiting room and she had her daughter with her, and she banged on the window and he held up and looked out very inquiringly, all out of breath she said, "Two to Lleu" — he said "Pip pip", and pulled down the window.

STATEMENT RE ESTEVAN INDUSTRY

Hon. Mr. Brown (Minister of Industry and Information):— Mr. Speaker, I think it's about time we changed the subject for a moment or two. I did not rise to participate in the discussion just underway. This is a little more serious matter.

I believe yesterday in the Orders of the Day before I came into the House, the Leader of the Opposition raised the question of the possibility of an industry in the City of Estevan leaving the province. He made some reference to one of the reasons being because of our highway regulations. I just want to let the House know, Mr. Speaker, that the question of the possibility of the industry leaving the province had been brought to my attention just yesterday morning by the Secretary Manager of the Chamber of Commerce, and as a result of our discussion

I arranged to send a team to Estevan today. I have just had a message from the people who are in Estevan and I am informed that they have met with the Industrial Development Committee in Estevan and it appears that most of the problems of the trailer plant have been solved. The Mayor's feeling is that the plant will remain in Estevan and will not be moved as previously said. I want to point out that it wasn't simply a question of any highway regulations. The plant was confronted with a number of other problems which were working some hardship on them, and apparently our people have been able to work with the local people and the industry, and it appears now that everything is going to settle down and they will remain in Estevan.

WEIGHT REGULATIONS RE SASKATCHEWAN HIGHWAYS

Hon. Mr. Willis (Minister of Highways and Transportation): —Mr. Speaker, at this time, I want to draw the attention of the Members of the House to the new Highway weight regulations which have been agreed to by Cabinet, will be gazetted to in the near future.

Sometime last fall two delegations representing the Saskatchewan Trucker's Association and a group of Saskatchewan industrialists submitted briefs to the Government requesting that weight limits in the province be increased. As a result of these requests a committee was set up to study the effects of an increase in eight allowances in an engineering and economic sense. The committee, taking into consideration the needs of our many new industries to transport goods freely and economically throughout the province, and the benefits accruing to the people of the province as a whole, found just cause for an increase in weight limits as requested.

From the standpoint of increased grow weights on our highways, it was pointed out that the present weight regulations are based on an allowable maximum of 18,000 lbs. for a single axle and for a tandem axle, of 28,000 lbs., in the case of four and five axle trucks and 32,000 lbs in the case of a three axle truck. The committee considers

that if a 32,000 lb. maximum were allowed on all tandem axles, very little if any greater damage would result to our highways than under the present weight limits. With these two considerations in mind, namely, the economic advantage and the engineering feasibility, it has been considered advisable to extend the 32,000 weight limit on tandem axles to four and five axle trucks operating on Saskatchewan highways as recommended by the committee. The effects of the change in weight regulations will be to allow on all Saskatchewan Provincial highways 58,000 lb. maximum load on four axle trucks and a 72,000 lb. maximum load on five axle trucks.

Other regulations affecting the allowable truck weight, such as 500 lbs. for each width of tire, or 18,000 lb. maximum weight on a single axle, are not being changed. The new weight regulations will come into effect on April 1st, 1961, subject of course, to the spring restrictions.

Mr. Thatcher: — Mr. Speaker, I wonder if I may direct a question to the Minister for reasons of clarification. First of all I would certainly say that we compliment him on the changes he is making today. It is something that the Opposition has been asking for for six or eight years and we are glad at last that he has acceded to our requests.

Mr. Speaker: — Order!

Mr. Thatcher: — But, Mr. Speaker, does this still mean that smaller trucks coming from Alberta crossing Saskatchewan and then over to Manitoba, will have different weight restrictions? Aren't you just making the changes for the bigger trucks?

Hon. Mr. Brown:— This is the only difference there was.

Mr. Thatcher: — As far as small trucks are concerned, is it fair to take from your statement that all weight restrictions in the three provinces now are the same?

Hon. Mr. Walker: — Ours are higher now.

Mr. Thatcher: — Thank you.

Mr. Snedker: — Mr. Speaker, I would just like to ask the hon. Minister of Highways how soon we could obtain a copy of the revised regulations.

Hon. Mr. Willis: — In the next issue of the "Gazette".

Premier Douglas: — If the member from Saltcoats felt it helpful to have these dittoed and circulated sometime while estimates are being discussed I'm sure this could be arranged.

WELCOME TO STUDENTS

Mr. L.P. Coderre (Gravelbourg): — Mr. Speaker, before the Orders of the Day are preceded with, I should like to draw to the attention of the Members of the Legislature, a fine group of students who are in the front row of the Speaker's Gallery and on the left. They're accompanied by Mr. Brown, who is helping with the 4H activities, Mr. Frank, who is with the school, and Mr. Llewellyn who is the assistant principal of the Bateman high school.

I am sure they have found that the few moments they have had already certainly have been enlightening and amusing. Unfortunately their time here this afternoon will not permit them to participate fully in the activities of the House, but I'm sure that with the few moments that they have they will have a very enjoyable visit in the city today.

WELCOME TO STUDENTS

Mr. Speaker: — Before the Orders of the Day, I would like to draw to the attention of the hon. Members some very fine young people in the Speaker's Gallery from Gull Lake, Grade III, under the guidance of their teacher, Mr. Wally Coates.

I would like to take this opportunity at this

time to wish them a very good time here this afternoon and the hope that it may be profitable. I hasten to assure them that we are not usually quite as frivolous as we have been this afternoon.

WELCOME TO STUDENTS

Mr. C.B. Peterson (Kelvington): — Mr. Speaker, before the Orders of the Day, I too would like to draw to the attention of the House a group of high school students from Kelvington and their teacher Mr. Harcourt. They have come down about 175 miles to be with us here today. I hope they will have a good time and a safe journey back home again.

ANNUAL MEETING DINNER OF COMMONWEALTH PARLIAMENTARY ASSOCIATION

Mr. Speaker: — Before the Orders of the Day, I have another announcement to make concerning the Annual Dinner Meeting of Saskatchewan Branch of the Commonwealth Parliamentary Association, which I believe is being arranged for 6:00 p.m. Thursday, March 23rd, in the Dome Café. All the Members and their wives and husbands are cordially invited to attend.

ADJOURNED DEBATES

The Assembly resumed the adjourned debate on the proposed motion of the Hon. Mr. Walker re amendment of the Canadian Constitution.

Hon. Mr. Blakeney (Minister of Education): — Mr. Speaker, prior to the time that I adjourned this debate, I had spoken on the motion fairly comprehensively and I don't want to take vey much of the time of the House this afternoon.

It has come to my attention however, that I had perhaps not dealt with the point in the Government's position

with respect to constitutional amendment, perhaps as fully as I might have done. With that in mind, I want to make the further point with respect to the Government's position on the constitution of Canada and the proposals to amend the constitution, and that is this. We take the position that if there is going to be any substantial change in the Canadian constitution, either in the substance of the constitution or in the manner in which it can be amended, we think it would be appropriate and most desirable if there was a wide measure of public consultation on this matter. We believe that the constitution is something that belongs not to the governments of Canada, but to the people of Canada. They all have, we believe, an interest in the form and structure of the fundamental constitutional law inasmuch as it governs their lives in many ways. It governs the conduct of their government at all levels towards them and governs the assistance which those governments give them in their daily lives. We therefore suggest that the matter of constitutional amendment is of such importance that it would appropriate and fitting to see what interested citizens and organizations have to say. We must seek the widest possible measure of public consultation if there is to be a major change.

I think that we in Canada have perhaps fallen into another pattern, because of the manner in which we got our constitution. Unlike the United States or some countries like the United States, who evolved their constitution as a result of constitutional congresses or conventions, the calling of which generated a great deal of public debate, we obtained our constitution by the action of governmental leaders, more or less behind closed doors. This was certainly necessary because these persons who were meeting were not in a position to make decisions, but only to make recommendations to the Imperial Parliament. Inasmuch as they were not in a decision-making position it was inappropriate perhaps for them to call great public meetings. However, we think now that the situation is different. The British Parliament, even though it may pass an Act, will not really be the guiding instrument in deciding what sort of a constitution we shall have. We think that the initiative will come from Canada and we think it ought to come from all the people of Canada or a great many of them, and not simply from the Governments. We think, therefore, that it would be appropriate perhaps to have a Royal Commission, and perhaps explore other ways of testing public opinion. We think of parliamentary and legislative debates

and this is one of the reasons that we put this resolution on the Order Paper here. We would hope that the press would discuss this matter, raise it on their editorial pages and place it before the public for discussion. And we would think that there may be a place for the assembling of a constitutional convention where they would be in attendance not only representatives of Governments but also of the Opposition parties, and constitutional experts, and representatives of various organizations, farm groups, labour groups and other people who may have a right to say that they represent a certain body of public opinion.

If after this is done the informed opinion of the Canadian public is that they are willing to accept a rigid type of constitution, with which the Attorney General and I earlier discussed our dissatisfaction, if the people after a full inquiry are willing to accept this, then we will have to accept this. However, we think that before any rigid form of constitution is fastened on the people of Canada, we think it desirable to have a wide measure of public consultation. We think that precipitous action in this case would not be warranted, it might do a great permanent harm to the nation for the sake of getting the constitution, as it is said, "repatriated", to Canada, which is an object which we think is important, but not important enough to call for hasty action before consultation with the Canadian people.

Mr. Speaker, I had perhaps failed to make this point as clearly as I might have. It was set out at some length in the statement that the Government made to the conference in Ottawa on October 6th, and still further in the statement which the Government made to the conference in Ottawa on January 13th. I have here the excerpts from them which I won't read. I have simply paraphrased them. I felt that we had adequately put this position of the Government of Saskatchewan, to the Ottawa conferences and I wanted to inform the House of this before I resumed my seat.

AMENDMENT TO MOTION

Mrs. Mary J. Batten (Humboldt): — Mr. Speaker, in rising to speak on this motion, I do so

most apologetically, because I haven't the background nor have I had the time to go into this question as I certainly would have liked to before making any public utterances on the subject, and before making up my own mind. Unfortunately I can't foresee that I'm going to find the time in the near future, and therefore I feel that I must speak on this at this time.

I'm a little worried about this phrase, "informed public opinions". Sometimes I think that when the hon. Members across the way speak of informed public opinion, what they mean is "formed public opinion" without the "in". Now, I was very disappointed, Mr. Speaker, hearing the hon. Attorney General's speech, because although he was very fluent in setting out his point of view and the point of view that he represented at the conference, he gave us no information about the other side. Although he stated what the other side was, he didn't give us any of the arguments that they used and he didn't give us the reasons that they must have set out at the conference for their stand. I can't believe, Mr. Speaker, that all the provinces of Canada except Saskatchewan came in there and simply sat without having some reasons for the stand that they took. I wasn't at the conference and neither were any of the other Members from this House, and I'm sure that we would have all been very interested in hearing the arguments that were put up to defend the positions of the Federal Government and of the other provinces. Without having those arguments before us, it is very difficult to make a decision on this type of question. Mr. Speaker, although I think that public opinion should be informed on a subject of this kind, I see very little hope of being able to get a representative opinion from all the groups in our society expressed on this subject of constitutional change, because by its very nature it's a very technical subject. In order to make a correct assessment you have to study the laws governing constitutional changes, the history, the various other constitutional set-ups throughout the world, and I can't see that there are too many people who are going to have the time and the background with which to make this type of study. Therefore, I'm not as optimistic as the hon. Members who have spoken on this motion are about having this done in the manner which they set forth.

I also, Mr. Speaker, don't feel that there is anything, in what as the Hon. Attorney General put is "some scheme or conspiracy" that's afoot, if this goes through;

if this flexible way of amending the constitution that he suggests is not accepted, then he says and I quote:

> "If this is not done, then I am afraid that some sinister influence at work trying to thwart the future progress of our country, will succeed in tying down every possible avenue of progress for Canada."

Well, I don't know what the sinister influence could be that's at work in Canada trying to thwart progress, but I'm not as worried about it as the hon. Attorney General. Now, on the other hand, the Hon. Minister of Education says that there is no great hurry about this, that we should hold meetings and that we should have this thing aired out. On the other hand the Attorney General seemed to suggest that something should be done immediately, that this change has been long overdue.

There are certain parts of this resolution that I certainly could agree with. There are other parts that I do not think are realistic today. Now, the stand of the hon. Attorney General, if I'm correct in assessing it, is that set out in his speech and set out by some press clippings from the conferences that were held on this constitutional program. I harken back to the conference that was held, I believe it was in November, where according to the press clipping, the eleven governments seeking a formula for making constitutional amendments in Canada met, and they agreed that no press statement would be issued. Now, I don't think that there is anything sinister about that, although there seemed to be an impression left by both the hon. Minister of Education and the hon. Attorney General that there is something very sinister about meeting behind closed doors. Well there are many meetings behind closed doors that are quite above board, and I understand from my reading of the press reports that the reason fro the closed door meeting, was to prevent a premature statement or a stand to be put forth by any party to this conference, so that the party would then be unable to change its mind to go with the rest of the conference without losing face. I think that this is maybe an oriental procedure, this care that no one should have to lose face, maybe it's a good thing. Certainly it doesn't seem sinister to me. Obviously the hon. Attorney General, although

he did not agree with this, apparently entered into this agreement with the other people involved, but then he went out of the conference and gave the press release, contrary to this undertaking. I think that this stirred up a considerable amount of displeasure, and I quote from this paper dated November 4th, where they state that:

> "Obvious displeasure of the other delegations was incurred when the Saskatchewan group, headed by Attorney General Robert Walker, issued a press statement four hours before the conference itself had agreed on a communiqué. Mr. Walker's statement added that the Saskatchewan proposal received widespread support from the common-law provinces, meaning in effect, every province except Quebec. But in talking to reporters later the representatives of Ontario and British Columbia as well as Quebec, said they didn't concur in the Saskatchewan statement."

Now, I don't want to go on, but it appeared from this report that Mr. Fulton also said that it was clear that Saskatchewan insistence on non-unanimity is in the minority, and of course, Saskatchewan was the only province that strayed from the principle that no disclosure would be made until a communiqué was issued.

Well, the hon. Attorney General is shaking his head, all I can do is follow what the press says, and this certainly is the statement in the report. I have never heard a contradiction or have I ever read a contradiction of that report.

Now this attitude went on and apparently in a report by James Nelson, in the "Leader Post" dated December 29th, 1960, again it was stated, that Saskatchewan refused to recognize the rule of non-unanimity for amendments to other facets of the constitution. Then in the final report of January 14th, it states that:

> "Saskatchewan is still reluctant to bind the provinces to a power veto against any future amendments affecting basic provincial rights." It was revealed at the end of a two-day conference by Attorneys General on constitutional reform.

Mr. Walker by that time had left the conference and had no comment to make.

> "The Quebec Minister who is widely acknowledged to be an authority on constitutional law, says that there should be no amendment to the constitution with the unanimous consent of all the provinces and the Federal authority, in those sections relating to property and civil rights, education and language."

Now, it seems to me that this is basically the only question of disagreement — the question whether Head 13, of Section 92, of the B.N.A. Act, should be changed, that an amendment of that section, should be unanimous or should it be as the Attorney General of Saskatchewan says, by majority vote and two-thirds consent of the province.

This, as you know, Mr. Speaker, is the section that deals with property and civil rights. Now I should imagine that the greatest difficulty in dealing with this section on property and civil rights, and this has been true throughout the years, is the definition of what those terms mean, and as our society changes and our laws change, as our economics change, there are different interpretations placed on that section. Now I can well imagine that provinces would be a little wary about giving up their right of legislation in that field, and one that governs minority as well as majority rights in provinces. I can see why provinces would keep a rather jealous eye on the jurisdiction in those fields. Basically I believe, from my reading on this subject and of the press clippings, that this is really the only field in which there is the basic disagreement between Saskatchewan and the other provinces. Now this stand of the Attorney General is to me inconsistent even though he says that there is no inconsistency in this desire of his for greater flexibility. But he wishes to be so flexible that he is going to make the constitution completely inflexible as it stands, today. It's so rigid that we can't do anything about it because of his stand. Now, to me this is inconsistent.

It's a lesson that I learned rather young in life. My father used to have, with his general store in a small town, a candling station for candling eggs, and when I was in high school he left on a business trip one day, and

to teach me some responsibility, he left me in charge of the candling station. I had decided what a fair price for eggs was, in those days truckers used to come around and pick them up, and because no trucker would agree with my fair price, I just didn't sell, and he came back three weeks later and he discussed the situation with me and he managed to hold onto his temper. I explained to him that it was the principle of the thing, after all I had set a fair price and nobody met it. Well, he said your principle is fine, but the eggs certainly aren't. Now, this is something like the Attorney General's stand; his principle is fine, the constitution should be flexible, but the point is this; his attitude at this time is preventing any change in our constitution. It's preventing Canada from having the right of changing its constitution. This I can't go along with, Mr. Speaker, because I think it's true as he stated and the hon. Minister of Education stated, that we have reached national maturity, that we have a national pride, but there is no real reason for us to have to go to Great Britain in order to have a change in our constitution. Now, if the only thing that's preventing us from having the right to amend the constitution in Canadian hands completely is the attitude of the Attorney General for Saskatchewan, then I'm afraid that I can't go along with the hon. Attorney General from Saskatchewan.

Now, my stand, and the stand of other people who feel as I do, is not a rigid stand. If in the future when we do have this amending procedure changed, and we have the power to amend our constitution, the provinces should agree unanimously together with the majority of the House of Commons, that we should change certain parts of the constitution relating to provincial rights with a two-third majority of the provinces, and a majority of the votes, then I would no doubt support that if ii didn't infringe on particular minority rights that were felt to be basic to certain sections of the country.

Mr. Speaker, it's very well to say that certain rights are being reserved and are being protected and can only be changed by unanimous agreement. This question has come up on numerous occasions, it has come up on consideration of the county system, or larger units of schools, and various discussions of that kind, where it has been stated very definitely, and I'm sure, Mr. Speaker, with the very best of intentions, that minority rights are being safeguarded, minority rights are being guaranteed under those

laws. But, Mr. Speaker, you and I know that the mere statement of a right in a Bill, is not sufficient, that quite often those minority rights are not protected unless there are property and civil rights that go hand in hand with those minority rights. The question of separate schools is the question in point. It's very easy to say that you have the right to have separate schools, but if the Government doesn't make provisions for you to be able to set up these separate schools and to receive grants for these separate schools, or to use your own taxes to pay for those separate schools, they become economically unfeasible and therefore, there are no actual existing rights, even though they are set out in writing. And this is the sort of thing I imagine that most of the provinces are a little afraid of, because this section on property and civil rights is such a wide section. It is very difficult to foresee today what that section will mean in twenty-five years. And I say this, Mr. Speaker, and I don't think that anybody will disagree with me, that we have become so enamored with this concept of majorities that sometimes we forget that you can't have democracy without also having minorities, and without having protection for those minorities. I think that this is something that we should keep constantly in mind, because majorities can be just as ruthless and dictatorial and unjust as dictators. There is less chance of it, but it can happen. And I think this is the type of inequality, this is the type of social injustice that we wish to prevent, and if the original founders of our constitution, of our confederation, thought that they were safeguarding these rights, giving them and assigning them to provincial jurisdiction, I think that we should at least take a good hard look at them before giving them up.

Now, I fail to follow the argument of the hon. Attorney General when he spoke of treaties. This is a case, if we don't have this majority rule Canada couldn't carry out a treaty, because the individual provinces might not want to go along with this. I fail to see this, because of course the treaty covers something in the national interest I can't see how this could ordinarily conflict with the sections governing strictly provincial rights.

Hon Mr. Walker: — . . . International Labour Convention.

Mrs. Batten: — Well, there may be individual cases, but where you are

speaking of treaties in a sense of treaties for defence or treaties that really have national connotation, I don't think that there is any great danger there. I think in speaking of treaties of the other type we have to remember this, Mr. Speaker, and the hon. Attorney General says this himself, we are not ten or eleven provinces all existing separately; we are a nation of 18 million people. These people as a group have a sense of national unity, have a sense of national pride, and if there is something in the national interest surely they have enough influence on their provincial governments to make sure that those provincial governments will go along and agree with anything that the Dominion Government wants to enact, if it is for national good or national safety, or national well-being. I cannot see that people think provincially in one field, and think nationally in another on the same subjects. They are basically Canadians; they are not Saskatchewanites, or Manitobans, and I think that this is rather a reflection on the Provincial Government. It is almost a suggestion that they don't reflect the thinking of their people, that they would do something against the well-being of their people just to be different, just to put a veto on the Federal Government.

Now, to go into the sections themselves, I want to read right of all the first sub-section 1, where this Assembly would express the hope that agreement can be reached among the provinces of Canada and the Governments of Canada whereby complete power to amend the constitution of Canada may be transferred to this country. Mr. Speaker, I agree wholeheartedly with that, and I imagine that almost every Canadian does.

Going on to sub-section 3, "that this Assembly opposes the adoption of any new procedure for amending the constitution, unless the proposed amending procedure is approved by the Government of Canada and all the provinces": I certainly agree wholeheartedly with that. I think that all the arguments given for it by the two previous speakers are valid and I go along with them not only on the argument, but also on their conclusion.

Now, sub-section 2, is the one that gives me a great deal of trouble, because while I agree with sub-section

2(b), "that a Bill of Rights should be added in the constitution", and this should also be amendable only by unanimous provincial agreement, I'm still a little dubious about this Bill or Rights, not because it was Mr. Diefenbaker's pet, although that makes me suspicious, but because sometimes I wonder whether in putting things down in writing we are not being a little more rigid than we need to be. It seems to me that our system of democracy grew up without being enclosed and encased in rigid words, and the common sense and sense of justice that the people themselves possess gave us more freedom, more rights, greater social justice, that we would have had under a written constitution or a written Bill or Rights in the days when those rights were perhaps more narrow than they are today. What, Mr. Speaker, can make us say today that we won't have a wider vision after twenty years, that what is our Bill of Rights today, and while it gives us greater liberties today, might not actually be a restriction of those liberties in twenty years? I'm not sure, and I'm not that enamored of words, I would rather trust the feelings and the good sense and the concept of justice, that I think that people, particularly Canadians, have. But I will go along with that to be agreeable, if only because of St. Patrick's Day.

Under sub-section 2(a), I think this is quite alright, although I think that sub-section 2, is repetitious; 2(a) is repetitious of sub-section 3. It says there, that provisions in the constitutions relating to the new amending procedure, should be subject to alteration only by a unanimous agreement, and this is of course, the same thing except stated in a negative way in sub-section 3.

Hon Mr. Walker: — No.

Mrs. Batten: — Perhaps something different is meant by that, I didn't understand that. The part that I differ with is 2(c).

Now, Mr. Speaker, there is nothing wrong with 2(c) in principle, and I'm not going to differ with it in principle, and I'm not going to say that I wouldn't be for it under other circumstances but I think that constitutional changes can only be made under the circumstances in which we find ourselves. They have to be

looked at the way things are in 1961. From what I see of reality surrounding this problem today, the Dominion of Canada or the Government of Canada, the government of every other province in Canada, except Saskatchewan, is willing to take on every proposal expressed in this resolution except 2(c). But the hon. Attorney General and the Government of Saskatchewan says we believe in flexibility of constitution and we are rigid in our belief, therefore, we will not go with the rest of you; we are going to exercise our power of veto and we are not going to allow you to have the right to make constitutional amendments in Canada, because you are not doing it our way. I'm not saying that maybe their way is not the best way, Mr. Speaker, but I am saying that if the other provinces will not agree to it today we should go along with the majority of them to go along in order to have the main principles expressed in this motion have some effect, and have them put into being. There's nothing to prevent us, under a unanimous agreement later, from having this very proposal embodied in the constitution, because once we have the power and the right to change our own constitution, we can do just that. In the meantime, I think perhaps the reasoning of the people who are not agreeing with the Attorney General, has some merit, and certainly I can't see why every other province should be forced into a procedure that they find distasteful because Saskatchewan has certain principles and it's going to stay with them, and because Saskatchewan seems to believe that there is some sinister influence at work seeking to make our constitution rigid. I'm sure that if this is the case, governments do change, Mr. Speaker. The governments that are in existence today I hope will not be existence twenty years from now. Certainly, if there are changes they can be made at that time, and they will be made at that time if it is found necessary by the provinces and by the Government of Canada that these changes should be made.

I just want to read one sentence that the hon. Attorney General said, and I think that this is the whole basis of his stubborn determination to exercise veto, and this will be the whole reason why we do not have the power to amend our own constitution in Canada, and I quote:

"This would mean that while we might be able to keep the reactionaries out of power

> in Ottawa, the mere fact that they get power in one single province would enable them to thwart the reasonable demand of the Canadian people for social legislation."

Now, Mr. Speaker, it has already been explained, I think by the hon. Attorney General and by the hon. Minister of Education, that there is nothing to prevent delegation of powers, these could be exercised at any time. I don't think that the example given by the hon. Attorney General, under the Unemployment Insurance Act, where Alberta for some reason didn't give her consent, was very valid. Because I'm sure, Mr. Speaker, that if some social legislation was going to be enacted that the majority of the provinces were in favour and the Government of Saskatchewan passed it, it wouldn't be very long before the government of the vetoing province would be forced to do exactly the same thing. I see no reason for forcing that province into that type of amendment.

Now, that is all that I have to say on the motion. I would like to move, seconded by Mr. Cameron, an amendment to the motion.

Now, I'm certainly not, nor is my seconder, rigid in this amendment. If conditions change, we don't say that this is the way the constitution has to stand until all eternity. We feel that if conditions change, if the attitude of the other provinces change, that amendments can be made by unanimous agreement in the constitution, providing for assignment of certain fields which are now exclusively provincial jurisdiction, to the Federal Government. This will be guided by the unanimous consent of the provinces and by the good sense of the Canadian people.

I therefore move, seconded by Mr. Cameron:

> That subsection (2) be deleted and the following substituted therefor:
>
> > "(2) believes that any amending procedure which is adopted must be acceptable to all the provinces and must protect certain fundamental matters from ready change, and in particular that:
> >
> > (a) provisions in the constitution relating to

the use of English and French language, education, and provisions concerning matters coming within the classes of subjects assigned exclusively to the provinces should be subject to alteration only by a vote of the majority of the Parliament of Canada and the unanimous consent of the provinces.

(b) a Bill of Rights should be added to the constitution and this should also be amendable only by unanimous provincial agreement."

STATEMENT ON ADMISSIBILITY OF AMENDMENT

Mr. Speaker: — We have before us an amendment this afternoon, about which I shall have to at this time make a ruling in regard to its admissibility.

This is a very complicated field for a layman such as myself to endeavour to make a ruling on. From the information I've been able to gather from this, it does not on the fact of it, contravene any of the rules that I know of in regard to amendments. I do not think that it is a direct negative of what has been proposed in the motion, and I believe that it is definitely relevant to the motion. I do not think that it brings in an entirely new subject that should be treated as a separate motion, and my thought on this, is that this amendment should be accepted at this time. I would, however, be very glad to have a few comments from the House with regard to this.

Premier Douglas: — Mr. Speaker, my only thought on it would be, like yourself, on a casual glance at it it seems to me perfectly in order.

Mr. Speaker: — At that rate if there are no other comments from the House, I would be very pleased to rule the amendment in order.

AMENDMENT TO MOTION

Premier T.C. Douglas: — Mr. Speaker, fools rush in where angels fear to tread and the laymen who start to discuss constitutional law with three lawyers, certainly have more gall than intelligence. I certainly had no intention as I came into the House of making any comment about this particular resolution, but, to my mind, this is such an important question, that I do want to ask all Members to stop and consider it and particularly, to ask the mover and the seconder of the amendment to give very serious consideration as to whether or not they ought to proceed with it. I'm not sure that they have fully appreciated the background of this whole situation.

The Member for Humboldt has said that the Attorney General didn't state the position of other provinces or the Dominion, and that is correct for the very obvious reason that I understand it was agreed at the conference that each province of the Dominion would be free to express their own point of view outside the conference, but could not and should not express the views of others, until such time as there's a general public debate on the question. Therefore, we are limited to stating our own point of view. But there is no harm in stating the well-known point of view of everybody concerned, with reference to previous conferences.

It's harder for us to appreciate the situation, but, as all Members know, the British North America Act is a British Statute. It's one of the few constitutions in the world that has no provision within its contents for its own amendment, and there has never been any agreed procedure for amending the British North America Act. There has been, as everyone knows, a great deal of dispute from time to time in Canada, as to whether or not the provinces should be consulted or should not be consulted. Those who accept the Compact Theory of Confederation, of course, have urged that the provinces must be consulted and should be consulted, but the Federal Government has never accepted this position. As hon. Members know, from time to time the Parliament of Canada has sent an address to Westminster passed by both Houses of Parliament, amending the constitution, sometimes over the protests of the provinces, sometimes after consultation with the provinces. But, there has been no agreed

procedures, and for a long time now people in Canada have been saying that we ought to have the power to amend our own constitution. Not only people in Canada, but people in Great Britain. I think the last two or three times that amendments have come before the British House, at the request of both Houses of the Canadian Parliament, always inevitably, some British Member of Parliament, gets up and says: — "Why isn't this transferred to Canada and let them amend their own constitution"?

It was Mr. St. Laurent, the previous Prime Minister of Canada, who took the first two steps in this direction. As I didn't come prepared, I'm not sure of my dates but I think they're reasonably accurate. In 1949 and 1950 he took the first step by which the B.N.A. Act was amended, so that those matters and subjects which come within federal jurisdiction, could be amended by the Parliament of Canada. Having done that, he then proceeded to call the Federal-Provincial conference, and said: — "Now let us see if we can agree on some amending procedures for those classes and subjects which come under provincial jurisdiction, and which are contained in the main in Section 92 of the B.N.A. Act".

I had the privilege of attending that conference and one of the subsequent conferences which were held. The first one was held in Quebec City, in I think, 1951. At that time, the Federal Government's proposals and the proposals of most of the provinces, may I point out, were in accord with what we are suggesting here. The suggestion was that those subjects which affect minority rights, including French and English language, education, Bill or Rights if one were written into the constitution, and the amending procedure itself, should be entrenched, and that they were not amenable to amendment except by the Parliament of Canada and every one of the provinces of Canada. The second proposition was that on those classes of subjects which fall within Section 92 and have to do with provincial jurisdiction, this could be amended by a majority of the provinces, representing a majority of the people of Canada, and, of course, the Parliament of Canada.

We started down Section 92, clause by clause, and we got agreement, even from Mr. Duplessis, on every clause of Section 92, except subsection 13, Property and Civil Rights, and on this, Mr. Duplessis wanted unanimous consent of all the provinces. Neither the Federal Government, nor the other provinces would agree to this. Mr. Garson, the Minister of Justice, was prepared to go to two-thirds of the

provinces representing a majority of the people, rather than just a half, and the rest of us indicated that if we could get any agreement, we would make this move as a compromise.

But, the conference broke down, on Clause 13 of Section 92, the Property and Civil Rights Clause — not just because Saskatchewan was adamant, but because the Dominion Government itself and all of the provinces except the Province of Quebec were not prepared to entrench clause 13 of Section 92. That is, we were not prepared to say that this clause, which the courts over the past twenty-five years have been making the repository for more and more powers, is not capable of amendment in the future except by the unanimous consent of all the provinces and the Parliament of Canada. That is why the conference which Mr. St. Laurent called, ended in failure, after repeated attempts to find some answer.

A new conference has been called, and again there's no disagreement on the entrenching of those things which affect minority rights — and that's what this resolution says: — French and English language, education, amending procedures, Bill of Rights — are matters affecting minority groups — should not be capable of amendment except by unanimous consent.

But when we come to Section 92, we are faced with the prospect now, not only of some talk of entrenching clause 13, the Property and Civil Rights Clause, but a suggestion of entrenching the whole of 92, and this, of course, would be a most retrogressive step. This is even worse than what Mr. Duplessis was prepared to agree to in 1951.

What is involved if we accept the entrenching of all of Section 92, and particularly, of clause 13, the Property and Civil Rights Clause? As hon. Members know, in decision after decision, for a quarter of a century, the Supreme Court of Canada, and when they had jurisdiction, the Judicial Committee of the Privy Council, gave very wide scope and interpretation to the Property and Civil Rights Clause, so that it has come to cover almost every new situation. This would very decidedly limit the capacity of the Canadian people to grapple with some of the problems now confronting us, and problems which are going to increase in importance and complexity, as the years go by.

Let me just make mention, for instance, of three

of them very briefly. We as a province are particularly concerned about the whole question of marketing primary products, and especially agricultural products. This is a problem which has never yet been solved from a constitutional point of view. Remember that the Bennett Government passed the Natural Products Marketing Act which was supported by all the farm organizations in Canada, and particularly by Western Canada. I think it would have been a great boon to us. But the Supreme Court and the Judicial Committee of the Privy Council threw it out as being an invasion of property and civil rights, and therefore, an invasion of the provincial authority, and therefore, ultra vires. Then the British Columbia Legislature passed marketing legislation and when it went to the courts, it was thrown out, because it invaded some aspects of the federal field. Ever since, the federal and provincial governments have been trying to work out some kind of marketing policy that will be within federal jurisdiction without invading the provincial field, and within provincial jurisdiction without invading the federal field, or by delegation of authority. This has failed and it has failed miserably. The only effective marketing they have been able to do with reference to agricultural products has been in grain marketing, and this is because the Federal Government has declared grain elevators to be at work for the general advantage of Canada, and brought them completely under federal jurisdiction.

Take the problem of marketing hogs. Everyone knows that even if you set up a provincial hog marketing board, you run into two problems. You run into the problem of inter-provincial trade in setting up some central marketing organization for Canada, and even more serious, you have the problem of exporting your surplus which runs into the whole question of international trade. Provinces have just not been able to resolve this problem, and even the Federal Government delegating some powers to the provinces doesn’t meet the situation. On hogs and on cattle, on poultry and dairy products, we are completely stymied on this problem of marketing, and I can see the day coming when the provinces and the Federal Government who are concerned, are going to have to find some type of constitutional amendment that will make it possible to have a federal marketing board for livestock, poultry and dairy products. This will be either federal boards or joint dominion-provincial boards. This will require constitutional amendment.

Mr. Thatcher: — Most of them don’t want them.

Premier Douglas: — No, I wouldn't say they don't want them. A great many of them want them. We've had discussions with the other provinces, but they can see little value in setting up provincial marketing boards, especially those provinces who have to send out of their province the great bulk of their products. Saskatchewan, Manitoba and Alberta are export provinces for hogs. This means that we have to have some central marketing agency. The moment we cross our provincial boundaries, we have no jurisdiction. We have to send our surplus outside of Canada. Again, we have no jurisdiction, and so some type of federal marketing legislation is becoming increasingly essential.

If we accept what the amendment is suggesting here, that we entrench all of 92 — because that's what it means — it says then the English and French language, education, and provisions concerning matters coming within the classes of subjects assigned exclusively to the province would be entrenched. This would mean that we couldn't get marketing legislation unless every province in Canada were prepared to agree.

There may be provinces in Canada that are not interested in the problems. A province like Newfoundland, or maybe a province like Prince Edward Island, might not have a particular interest in such an amendment. If they didn't want to go along, then the fact that the Parliament of Canada wanted it, the fact that nine other provinces wanted it, would be of no avail. One single province representing probably three to five percent of the population of Canada, could veto something which might be of paramount interest to the primary producers of the rest of Canada.

Take another matter coming under the same clause — the matter of labour legislation. I wasn't here when the Attorney General introduced this resolution, but judging from the remarks that have been made, he referred to the International Labour Treaty. Almost every year, Canada sends representatives to the I.L.O. Conference in Geneva, and almost every year we sign some treaty regarding certain minimum labour standards. But, the Parliament of Canada has no power to implement them. All it can do is to send them to the provinces and say: "We've agreed in principle to this but since we have no jurisdiction can you do something about it?"

I think the day is coming when there will have to be some national minimum standards of labour legislation

in Canada. I'm not suggesting by that that the provinces should completely vacate the field of labour legislation. But there would be great advantage if we Canadians as signatories to these labour agreements, were able to stand before the other nations of the world and say, "At least we have implemented these minimum standards." Here we are suggesting to the African and Asian nations that they should introduce certain minimum standards we are not able to introduce ourselves. In Canada we have to slow down the whole labour program in terms of wages, hours of work and labour conditions to the pace of the slowest province. A province may insist on having little or no labour legislation and has very low standards, in order to attract industry. It tends to be the place to go, and the province which has fairly progressive labour legislation, and has some social conscience may be discriminated against us, and may be penalizing itself by having such labour standards. I think the day will come when the Canadian people will want to have a minimum labour standard across Canada, and then let the provinces go above that minimum standard if they so desire. Again, this will mean some type of constitutional amendment. Again, one province — it might be a province of only 105,000 people — could veto such an amendment.

Then there's the whole question of social security. There is a growing feeling in Canada, that is not only shared by people who believe in the welfare state. I noticed an article in the "Financial Post", on a survey of our social security system in Canada. It pointed out that it is now in such a patchwork quilt form, that we are not getting value for our money, and that countries who have a uniform, integrated social security system, are getting more social security for dollars spent. I'm sure that the public will insist, eventually, that we have an integrated social security system, as they do in the United States, as they do in Great Britain, as they do in the Scandinavian countries, where people pay into a social security fund that covers everything — it covers unemployment insurance, it covers old-age pensions or widows' pensions, it covers sickness benefits, it covers retirement allowances, health insurance, all administered by the same type of administration. If we're ever going to have a national social security system, or a joint national-provincial social security system, this inevitably means amendments to the British North America Act, particularly, this clause 13 of Section 92.

I feel, Mr. Speaker, that we ought to look very seriously at this matter. I am one, who for many years, has

expressed the belief that Canada's constitution should be in Canada, and that it should be amendable by Canadians. While I think that the sooner this is done, the better, I suggest that to go from a constitution which we can now amend by the Parliament of Canada, into a constitution which can only be amended by the Parliament of Canada and the unanimous consent of ten provinces, is to go from the frying pan into the fire. I wouldn't like to see us continue with our present constitutional schizophrenia, where half of it can be amended by Ottawa, and the other half can be amended by the British House of Commons. But to me it would be preferable to having a Canadian constitution in which we have put the entire Canadian economy into a constitutional strait jacket. That is precisely what we would be doing.

I notice the member for Humboldt said, and I agreed with her, that we're not ten provinces, we're a nation. Well, if we are a nation, we must have the constitutional power to act as a nation. Surely we ought not as a nation to be slowed down to the pace of the slowest single province. The resolution on the Order Paper suggests, that if three-fifths of the provinces of Canada (this is six provinces) representing a majority of the people of Canada (this would mean that one of the six would have to be either Ontario or Quebec) which represents over nine million people, plus the Parliament of Canada, Senate and the House of Commons are agreed that a constitutional amendment is necessary, surely, that ought to be proceeded with, particularly when you remember that language, education, Bill of Rights, and the amending procedures, are all entrenched and cannot be touched without the unanimous consent of all the contracting parties.

It's alright to say that you will accept this very rigid constitutional strait jacket, in order to get the constitution back to Canada, and then we can get it amended later. But I haven't much hope of getting it amended later if we have to wait on agreement of every one of the ten provinces of Canada and the Parliament of Canada. It seems to me that the time to get some degree of flexibility is now, when we are bringing the constitution back. The Member for Humboldt said that, if one province wants it and goes ahead, others will support it. But we all know that this takes a lot of time. Old-age pension legislation was introduced in Ottawa in 1926. It was ten years later — 1936 — before the last of the provinces came into old-age pensions. If we had to proceed by way of a constitutional amendment, all of the provinces who entered in from 1926 to 1936 would

have had to wait until the last province was agreed.

The same applies to hospitalization. Hospitalization started here. British Columbia followed. But it has taken all this time before the last two or three provinces have come into the plan. If we are to be slowed down to the pace of the slowest province, then, Mr. Speaker, I believe that this will lessen our capacity to act as a nation, and to grapple effectively with some of the social and economic problems which now confront the Canadian people, and will confront them in increasing measure in the years which lie ahead.

I had hoped that we would get unanimous support on this resolution which is before the House, particularly in view of the fact that it is precisely the position which was taken by the Federal Liberal Government in 1951 and, I think, by all the provincial Liberal governments. It was opposed at that time only by Mr. Duplessis and the Union Nationale Government. I can't say why the present Federal Government has taken the position of entrenchment. I don't know whether it's a matter of being sinister so that we can't make these changes that are necessary to grapple with the problems, or whether it's just a desire to get unanimity by agreeing with the most absolute position, but it's certainly not in keeping with the position which they . . .

Mrs. Batten: — Will you accept a question?

Premier Douglas: — Yes, sure.

Mrs. Batten: — If you consider that this same Government is in power and you had the changes you have now by assigning them a provincial field, aren't you taking a retrogressive step, if you consider the present Government retrogressive? For instance, if you give them the right to legislate in the labour field, you are taking that right away from this province, where you say we have progressive legislation, and you're setting us all back because the Federal Government is retrogressive, are you not?

Premier Douglas: — Mr. Speaker, I thought I made that clear, but probably I didn't. I had in mind, as I said, that the Provincial Government would not vacate the field insofar as labour legislation is concerned, but that the Federal Government would have the power to set national minimum standards which would not prevent the provinces having higher standards,

if they wanted to go above that as they do in the United States. The Federal Government in the United States can set certain minimum standards in respect of minimum wage, maximum hours, but the states may go above that — they may have higher wages or may have lower hours, but there is at least a minimum standard with which everyone should agree. This would at least allow the Canadian Government, when it signs International Labour Organization Treaties, to enforce them insofar as minimum standards are concerned, and leave it to the provinces, if they want to have higher standards for those who come within their jurisdiction.

I want to say in closing, Mr. Speaker, that I had hoped that this would receive unanimous support, because I think it is of vital importance to the Canadian people. I think it's in keeping with the position which was taken at the 1951 conference. I think it's in keeping with the position which was taken by Mr. St. Laurent and Mr. Garson, who was Minister of Justice at that time. I think it's in keeping with all of the provinces who met at that conference, with the exception of the Province of Quebec. I am certain that if the Canadian people in their natural and laudable desire to get the constitution back into Canada, and to have the power to amend it in Canada entrench all of Section 92, then, in my opinion, this will be the most retrogressive step we have taken since Confederation.

For instance, under Section 91, a majority of the Parliament of Canada can amend Section 91. It doesn't have to be unanimous — it doesn't even have to be two-thirds of the Members of Parliament — it needs only a majority of the Members of Parliament and a majority of the Members of the Senate. But, when it comes to 92 — and remember we're not talking now about language, education, Bill of Rights, or the amending procedures — those we are agreed to be unanimous, but if we're going to make amendment of all the rest of Section 92, subject to unanimous consent, then, Mr. Speaker, I'm convinced that generations to come will look back and feel that we put them into a state of constitutional rigidity, which will undoubtedly have a very adverse effect upon the social and economic development of Canada, and therefore, I could not possibly support this amendment.

Mr. A.C. Cameron (Maple Creek): — Mr. Speaker, I would just like to make one or two comments on the

amendment. I am in complete agreement with the views expressed by the Attorney General, the other day, and by the Premier just now of the need to having the right to amend our own constitution. I think it is long past due. I think that every province in Canada has come to that conclusion. It seemed to me from press reports of the conference just held, that there could have been unanimity of agreement as to the amending procedure except for the position taken by our own Attorney General. I am in agreement with No. 3 that says, "that we oppose the adoption of any new procedure for amending the constitution, unless the proposed amending procedure is approved by the Government of Canada and all the provinces."

Now, as I see it, when the Attorney General spoke, and I want to refer to his remarks when he said, leading up to the subject of section Head 13, "That's why we cannot agree with any amendment to Head 13 that can be entrenched under the new amending formula." And, I take it from that that he's asking the House to support him in that stand in order that he can go back to the conference and say to the other provinces of Canada, that unless you grant us this request with regard to flexibility, we will veto any action of the other provinces in this regard. If that is done, then it is practically impossible to get any power to amend the constitution within Canada itself. Because, in order to get the right to amend the constitution, as I understand the discussion from the Provincial Treasurer and the Minister of Education, the conference must have unanimity and any formula arrived at must be by agreement of all of the provinces.

But, Saskatchewan apparently disagrees with some of the other provinces in regard to flexibility. There is certainly a great deal to be said for flexibility when you have the guarantees regarding minority rights, and the two official languages, and education is being entrenched in the constitution. The question as I see it hinges on the position taken by our Attorney General that unless you have this other flexibility in amending the constitution, that the Province of Saskatchewan will hold out against the rest of the provinces, and thus prevent us from getting the right to amend the constitution within Canada ourselves.

Now, then if that is the position, and he has not laid before this Legislature any of the views of the other provinces, because he says he can't, well then I'm not in a position to know if any of the other provinces are in agreement with the position taken by Saskatchewan.

Hon Mr. Walker: — I can't tell you.

Mr. Cameron: — Legitimate as the position may be, the danger as I see it, is this, that if we are going to hold out and say that we will not agree to any amending constitution unless you submit to our request for flexibility, then the conference would become a failure, and we'll have to wait again probably for another generation before we can take a new look at it. I'm just wondering if we're interested in the point of view of getting the right to amend our own constitution, we shouldn't be prepared to give and take with the other provinces in order to establish that right first. It's fine to say that some province with 106,000 of a population may hold out against the wishes of the rest. But, I hardly think that goes along with the viewpoint expressed by the Premier and the Member from Humboldt, that we are a nation, and we are not eleven or twelve individual provinces. The people of Canada are coming to the stage where they think in terms of a nation, not in individual provinces. I don't think there would be too great a danger if all the other provinces except one agree to an amendment that is sponsored, that the weight of those provinces couldn't bring one individual province around to that particular viewpoint.

I am in agreement with the principle of flexibility, but, I can't go along with the thinking that unless you give it to us at this particular time we will wreck the whole procedure and we will go without before we will submit. That seems to be the attitude, and I think what the Attorney General is asking us to do is to strengthen his hand further. He can say, here is the Province of Saskatchewan with unanimous support of the Legislature. We have come down here with our minds made up that right here and now, unless you agree to our view regarding flexibility, we will not sign. Thus there can't be unanimity and we can't have the right to amend our own constitution in the Dominion of Canada.

That is the danger that I see in it. Not that I'm in disagreement with it, but I think, surely, after this right to amend our constitution has been brought to Canada, that surely if we're acting in the national interests, we can proceed from there over the course of years to get more flexibility into the constitution.

Hon Mr. Walker: — Why can't we do it now?

Mr. Cameron: — You're saying why not now.

Hon Mr. Walker: — Then you're opposed to it.

Mr. Cameron: — You're putting that as

a condition- - - No, I've made myself clear twice on that. You're putting that as a condition of you going along with the rest of the provinces on the right to amend our own constitution. You're saying it must be brought in now. - - -

Hon Mr. Walker: — Read the amendment.

Mr. Cameron: — . . . immediately, or else we can't go along with you. I may be wrong, but that is my interpretation of it. That unless you have the right that you're demanding in this resolution, and the rest of the provinces concede on that point, that you will not go along with the rest of the provinces on it.

There is the danger. While we may be aiming for these things, we can wreck the whole conference by holding out at this point for everything or nothing, rather than taking and considering the advantages that we may derive by having the right to amend our own constitution, and then proceed by agreements and education, as the Minister of Education pointed out, and persuasion among the other provinces to get this flexibility incorporated into the amending procedures at some later date.

That is my reason for supporting the amendment. I am prepared to go along now, in order to create for Canada itself the right to amend its own constitution, even though we would like to see many of these phases in it now. I don't think that we can take the chance of wrecking the conference and setting us back probably a generation, because they won't move in our direction as quickly as we would like to see them do it. That is the danger as I see it.

Premier Douglas: — May I ask the hon. Member a question? Does he think that we would be better off under a Canadian constitution which is as rigid as the amendment proposes, than we are now?

Mr. Cameron: — As you said, Mr. Premier when you got up to speak, I am only a layman, and I don't know all the implications of amending the constitution. It would be impossible for me to say whether we're better off under the half-free and half-fettered constitution that we have today, whether that is better — if we have just one alternative, whether to stay with that or whether to entrench these things in a new constitution and take that. I am not in a position to answer that, but I am in a position to say that if we can't get everything we want, we should be prepared for the sake of the

nation, and of the national development to compromise on some of these conditions with the rest of the provinces. As I say, to leave us here with only the viewpoint of Saskatchewan, without having the arguments pro and con put forth by the other provinces, leaves us in a strait jacket. You can't assess it because you haven't heard the other side of the story. It puts us in a terrible position. The reason, as I said, and I want to make it abundantly clear, that we would prefer to go along with this rather than to give the Attorney General the authorization of this House to say, "This is what we want, you must take it or leave it, and we'll go home. You can do as you please."

Talk about being rigid. That is a most rigid attitude and a most rigid stand, a sort of dog in the manger attitude. You'll do as I do, or I'll prevent you from doing what you want to do. If that is the stand you are taking, if you prefer to wreck the conference, rather than to get some standard whereby we can agree, then that's up to you, but we refuse to be a party to it.

Hon Mr. Lloyd (Provincial Treasurer): — Mr. Speaker, I want to assure you at the outset, that it is not my intention to solve the problem, which has been put before us, nevertheless, I do feel it is one which does require solving, and I doubt very much whether we're going to solve it by debating back and forth across the House. As a matter of fact there seems to be some danger in that the positions taken already have grown a bit too rigid to perhaps arrive at a satisfactory answer. I hope that is not the case, Mr. Speaker, and I would hope that some more time during which perhaps there might be some discussions between the Attorney General and Members on the other side of the House, that it would be possible to get a statement on which we could agree, and which would be acceptable.

I beg leave to adjourn the debate.

The debate was, on motion of the Hon. Mr. Lloyd, adjourned.

ADJOURNED DEBATES

The Assembly resumed the adjourned debate on the proposed motion of the Hon. Mr. Walker: That Bill No. 45 be now read the second time.

Mrs. Mary J. Batten (Humboldt): — Mr. Speaker, I had a few questions to ask

the hon. Minister on this Bill, but I have forgotten what they were at this time. I think we could perhaps go into Committee and after looking at the Bill, maybe the hon. Minister can answer them at that time. They are I think, rather a matter of principle, but perhaps that will be overlooked.

The question being put, it was agreed to.

SECOND READINGS

Bill No. 47 — An Act to amend The Secondary Education Act

Hon. Mr. Blakeney (Minister of Education): — Mr. Speaker, this is a Bill to amend the Secondary Education Act, and it doesn't have too many points of principle in it. It includes a section to permit the suspension or expulsion of a laggard student which is a power which is already in the School Act, and is one which I believe people have assumed was in the Secondary Education Act, but which does not appear to be there, on a careful examination.

It includes also permission to permit a trustee to purchase debentures issued by the school district in which he is a trustee — again not a matter of real principle, and it re-phrases a section which is already in the Act, Section 71(a), dealing with immunity of a teacher from liability. It is not meant to change the principle, but merely re-phrases it. The thought was that it was rather unhappily phrased before.

With those comments, Mr. Speaker, I move second reading of the Bill.

The question being put, it was agreed to.

Bill No. 48 — An Act to amend The Larger School Units Act

Hon. Mr. Blakeney (Minister of Education): — Mr. Speaker, this is a Bill to amend

the Larger School Units Act, and it contains a number of provisions, most of them very minor. It contains a provision to provide for the election of a sub-unit member for a town district on the same basis as the election of sub-unit members for the other parts of the unit. Presently the sub-unit member for a town district is appointed. It is the only case that a member is appointed, and this is a little bit of an anomaly. The thought was that we would put the sub-unit member from a town district on the same basis of election as all other sub-unit members.

It also has a number of provisions: the familiar provisions changing the reference to the judge of the district court, to judge of the district court, rather than to judge of a district court. This is the explanation which I have given in the case of a number of the other Acts. These are being tidied up now.

There are Sections 46(a) (b) (c) (d) and (e) — a number of sections dealing with the rights of teachers when a district is added to a school unit, or transferred from one school unit to another school unit, or where a district is excluded from a school unit, in the case of formation of a separate school district. All of these sections are designed to enable a teacher who, for example, remains in a school which was added to a school unit, to retain credit for the period of employment with the board of trustees of the district with whom he was previously employed. It is to ensure that the unit board will continue to pay the teacher until the end of the academic year on the basis of his old contract. It also seeks to protect certain rights to sick leave, to holiday pay, and to length of service in order to ascertain his position on the salary scale.

Mrs. Batten: — It doesn't protect him under the Teacher Tenure Act.

Hon. Mr. Blakeney: — I don't think so. I am not certain. There is a further section to permit a school unit board to invest surplus funds of the unit in a little wider selection of securities. This is a section which was referred to in discussing other Acts — to permit a unit board to buy hospital district bonds for example, if they had funds which were temporarily idle. Another section permits a board member to purchase debentures issued by the board of which he is a member. It provides for the changes in the school grants formula which I referred to in the House in my address in the Budget Debate, the changes in the

division when calculating teacher equivalents due to conveyance, and changes in the assigned costs for the operation of primary and of secondary rooms. These are, as I have said, the changes that I explained in my remarks in the Budget Debate, and I think they probably could be dealt with best in committee.

With those comments and explanations, Mr. Speaker, I would move second reading of the Bill.

The question being put, it was agreed to.

Bill No. 49 — An Act to amend the School Grants Act, 1960

Hon. Mr. Blakeney (Minister of Education): — Mr. Speaker, this is an amendment to the School Grants Act, and it does three things. The first portion in Section 2 provides for a different definition of continuation school. I think perhaps I should just offer an explanation of that. In the past it has been the custom of the Department to base its grants on certain assigned costs payable in respect of elementary school rooms, and secondary school rooms, and a high school room was defined as a room in which Grade IX, X, XI, or XII was taught, and also a room which contained some students of those high school Grades — IX, X, XI, or XII, — and also some students who might be in Grades VII or VIII. This was a room which contained students of more than three or four grades, and this was called a continuation room, I think, for the obvious reason that it continued on from elementary school to high school, such a continuation room was counted as a high school room. The change here is to say that it will not be counted as a high school room if it contains Grade VII students. It can still contain Grade VIII students, but not Grade VII students. If it contains VIII, IX, and X for example, it will be a high school room. If it contains VII, VIII, and IX, it will not be a high school room, for grant purposes.

Also there is set out the proposed change in the grant for the non-formula areas as I outlined them in my remarks in the Budget Debate. Members may recall that this grant is calculated by calculating the assessment per room, and deducting that from a figure which last year was $145,000, and will be $150,000 this year and the result which you get by subtracting the assessment per room from this figure of

$150,000 is then multiplied by a mill rate which last year was seventeen and this year will be eighteen. This change is provided for. The changes are in the mill rate and in the amount from which the assessment per room would be subtracted. The Bill also contains the changes in the assigned costs which I have referred to in discussing the amendments to the Larger School Units Act — the changes in the assigned costs for an elementary room and for a secondary room. It makes certain changes as well by providing for an increase in conveyance grants to consolidated districts.

All the changes, Mr. Speaker, are I think, of a purely technical nature in order to implement the change in grant policy which was announced earlier, except the change in the definition of continuation school to which I have referred. With that explanation, Mr. Speaker, I would move second reading of the Bill.

Mr. Thatcher: — I just wanted to ask a question. Could the Minister say whether any provision is contained in this Act, or some similar Act, to help institutions of the kind Father Murray has down in Notre Dame, Wilcox? I asked you that question on Public Accounts, I believe, and you stated that it was under consideration. Now, could you give us any further advice on that at the present time?

Hon. Mr. Blakeney: — First, with respect to institutions of that type, I think I'd want to define that a little more carefully.

Mr. Thatcher: — I am talking about the college.

Hon. Mr. Blakeney: — To the extent that is post Grade XII work, or college work, there is no provision in this Act, and so far as I am aware, no provision elsewhere for a grant or for other financial assistance to post high school education. I think the answer in that respect is no.

Mr. Thatcher: — The Department isn't considering any assistance at the moment.

Hon. Mr. Blakeney: — I don't think it would be fair to say we're considering it. I think the answer is again no.

The question being put, it was agreed to.

BUSINESS OF THE HOUSE

Hon Mr. Lloyd (Provincial Treasurer): — I understand that there is an agreement that we wouldn't meet tonight. If the Opposition were to insist we could go into estimates, but there's only fifteen minutes left.

Mr. Thatcher: — Mr. Speaker, would the Provincial Treasurer tell the House what work we're likely to go into Monday, and the early part of the week. I think if we adjourned now, everybody would be happy.

Hon Mr. Lloyd: — I think the general plan is as announced by the Premier earlier in the week, that we would during the afternoons next week try to deal with legislation and Second Readings, and Committee of the Whole, and in the evenings we would deal with estimates. That would mean that on Monday we might get into estimates before the evening, because there isn't a lot of legislation. We'll start in the estimates at the beginning of the book, and it should be the Administrator of Estates, and the Attorney General, and then move on as closely as we can in the order in which the estimates appear on the sheet. The Administrator of Estates, the Attorney General and Agriculture are the ones that are likely to come up on Monday.

The Assembly adjourned at 5:16 o'clock p.m.